

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

JAN 30 2004

PAT & TM OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DONALD C. ABBOTT, MICHAEL E. MITCHELL,
PAUL R. MOEHLE, and DOUGLAS W. ROMM

Application No. 09/733,718

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on December 30, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On December 24, 2002, appellants filed an amendment (Paper No. 8). On January 14, 2003, the examiner has indicated in an advisory action (Paper No. 9) that the amendment filed December

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24, 2002, would be entered. A review of the file reveals that the amendment was not physically entered. Appropriate correction is required.

Also, according to the final rejection (Paper No. 7) filed October 15, 2002, claim 21 was rejected under § 102(e) over U.S. Patent No. 6,232,651 to Lee. A review of the examiner's answer (Paper No. 13) filed July 3, 2003, reveals that the examiner has not stated the statement of rejection to claim 21 under § 102(e) nor listed the Lee reference as prior art (see pp. 3-6). It is not clear whether the rejection to claim 21 under § 102(e) was withdrawn. Before further review of this file, the examiner must give a clear indication of the statement of rejection to claim 21 under § 102(e).

Accordingly, it is

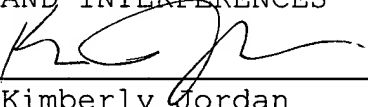
ORDERED that this application be returned to the examiner for: 1) physical entry of the amendment filed December 24, 2002; 2) clarification of the statement of rejection for claim 21 under § 102(e) over Lee; 3) entry of the Lee reference as prior art, if appropriate; and 4) for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

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By: _____


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